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Draft Financial Rules of the International Tribunal for the Law of the Sea

Prepared by the Tribunal

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Introduction

1. The thirteenth Meeting of States Parties adopted the Financial Regulations of the Tribunal (SPLOS/104) which have become effective on 1 January 2004 and apply to the financial period 2005-2006 and subsequent financial periods (see SPLOS/100). Pursuant to regulation 10.1(a), the Registrar should establish detailed financial rules and procedures in order to ensure effective financial administration and the exercise of economy.

2. In accordance with this provision, draft Financial Rules have been approved by the Tribunal and are herewith submitted to the Meeting of States Parties for consideration.

3. The present working paper reproduces the full text of the Financial Regulations as adopted by the Thirteenth Meeting of States Parties (SPLOS/104). The Financial Rules in bold are inserted in the appropriate places following the respective Regulations which they are intended to make more detailed in order to facilitate their application.

REGULATION[1] 1: Applicability

1.1 These Regulations shall govern the financial administration of the International Tribunal for the Law of the Sea.

1.2 For the purposes of these Regulations:

(a) "Committee on Budget and Finance" means the Committee established as such by the Tribunal;

(b) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982 together with the Agreement of 28 July 1994 relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea;

(c) "Meeting of States Parties" means the Meeting of States Parties to the Convention;

(d) "International Organizations" means international organizations, as defined in article 1 of Annex IX to the Convention, which are Parties to the Convention. "States Parties" in these Regulations does not include International Organizations;

(e) "Registrar" means the Registrar of the Tribunal;

(f) "Financial Rules" means the Financial Rules of the Tribunal;

(g) "Statute" means the Statute of the Tribunal, Annex VI to the Convention;

(h) "Working Group" means the open-ended working group established in accordance with rule 53 bis of the Rules of Procedure for Meetings of States Parties.

APPLICABILITY, AUTHORITY AND RESPONSIBILITY

Rule 101.1: Applicability and authority

The Financial Rules are promulgated by the Registrar in accordance with the provisions of the Financial Regulations approved by the Meeting of States Parties. They shall govern all the financial management activities of the

[1] The Financial Regulations adopted at the Thirteenth Meeting of States Parties are reproduced here for easy reference only.

Tribunal except as may otherwise explicitly be provided by the Meeting of States Parties or unless specifically exempted therefrom by the Registrar. The Registrar may delegate by administrative instruction authority for specified aspects of the Financial Regulations and Rules. These administrative instructions will state whether the delegated official may assign aspects of this authority to other officials. In the application of the Financial Regulations and Rules, officials shall be guided by the principles of effective financial management and the exercise of economy.

Rule 101.2: Responsibility

All members of the staff of the Tribunal shall comply with the Financial Regulations and Rules and with administrative instructions issued in connection with those Regulations and Rules. Any staff member who contravenes the Financial Regulations and Rules or corresponding administrative instructions is liable for the consequences of such contravention.

REGULATION 2: Financial period

2. The financial period shall consist of two consecutive calendar years, beginning with the year 2005. Until then the financial period shall consist of one calendar year.

REGULATION 3: The budget

3.1 The draft budget for each financial period shall be prepared by the Registrar.

Rule 103.1: Preparation of draft budget

(a) The Registrar shall decide on the content and resource allocation of the proposed draft budget to be submitted to the Committee on Budget and Finance;

(b) Heads of organizational units shall prepare budget proposals for the forthcoming financial period at such times and in such detail as the Registrar may prescribe and in accordance with the Financial Regulations and Rules of the Tribunal.

3.2 The draft budget shall cover income and expenditures for the financial period to which they relate and shall be presented in euros.

3.3 The draft budget shall be divided into parts, sections and, as appropriate, programme support. It shall be accompanied by such information, annexes and explanatory statements as may be requested by or on behalf of the Meeting of States Parties, including a statement on the main changes in comparison with the budget of the previous financial period, and such further annexes or statements as the Registrar may deem necessary and useful.

Rule 103.2: Content of draft budget

The draft budget shall contain:

(a) a detailed statement of resources to be allocated by parts, sections and as appropriate programme support; for purposes of comparison, the expenditures for the previous financial period and the revised appropriations for the current financial period shall be indicated alongside the resource estimates for the forthcoming financial period;

(b) a statement of estimated income, including income classified as miscellaneous in accordance with regulation 7.1; information on revenue-producing activities shall show estimated gross revenue and expenditure for each activity as well as the credit to the income section of the budget in respect of the net revenue from each activity.

3.4 The Committee on Budget and Finance shall transmit to the Tribunal the draft budget proposed by the Registrar for the following financial period with its comments and recommendations. The Tribunal shall consider and approve the draft budget for the following financial period and shall transmit it to the Secretariat of the United Nations in sufficient time to ensure its availability to all States Parties and International Organizations at least 40 days prior to the opening of the Meeting of States Parties for its final approval.

3.5 States Parties and International Organizations may request the Registrar to provide clarifications on the proposed budget. Such clarifications shall be provided by the Registrar at the meeting of the Working Group.

Rule 103.3: Publication of the adopted budget

The Registrar shall arrange for the publication of the budget as adopted by the Meeting of States Parties.

3.6 Supplementary budget proposals may be prepared by the Registrar if exceptional circumstances make this necessary. They shall be prepared in a form consistent with the approved budget. The provisions of these Regulations shall apply mutatis mutandis to the proposed supplementary budget.

Rule 103.4: Revised and supplementary budget requirements

Revised and supplementary budget proposals may be submitted in the following instances:

(a) when, in the interest of the administration of justice, urgent approval is required;

(b) when they include activities which the Registrar considers to be of the highest urgency and which could not have been foreseen at the time the initial budget proposals were prepared;

(c) in respect of decisions taken by the Meeting of States Parties;

(d) when they cover activities mentioned in earlier budget proposals as items for which later submissions would be made;

(e) when they involve changes in expenditure requirements associated with inflation and currency fluctuations.

Rule 103.5: Preparation of revised and supplementary budgets

(a) Heads of organizational units shall prepare revised and supplementary budget proposals in such detail and at such times as the Registrar may prescribe.

(b) The Registrar, with the approval of the Tribunal or the President if the Tribunal is not in session, shall decide on the content and resource allocation of all revised and supplementary budget proposals to be submitted to the Meeting of States Parties.

3.7 The Registrar may enter into commitments for future financial periods, provided that such commitments:

(a) are for activities which have been approved by the Meeting of States Parties and are expected to continue beyond the end of the current financial period; or

(b) are authorized by specific decisions of the Tribunal acting with the prior approval of the Meeting of States Parties.

Rule 103.6: Maintenance of record of commitments for future financial periods

The Registrar shall maintain a record in the accounts of all commitments for future financial periods (rule 111.7) which shall constitute the first charges against relevant appropriations once these are approved by the Meeting of States Parties.

REGULATION 4: Appropriations

4.1 The appropriations adopted by the Meeting of States Parties shall constitute an authorization for the Registrar to incur obligations and make payments for the purposes for which the appropriations were adopted and up to the amounts adopted.

4.2 Appropriations shall be available for obligation during the financial period to which they relate.

4.3 Appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to liquidate any outstanding legal obligations of the financial period. The balance of the appropriations remaining unobligated at the close of the financial period, after deducting therefrom any contributions from States Parties, International Organizations and the International Seabed Authority relating to that financial year which remain unpaid, shall form part of any cash surplus of the budget and shall be treated in accordance with regulation 4.5.

4.4 At the end of the twelve-month period provided for in regulation 4.3, the then remaining unspent balance of appropriations retained after deducting therefrom any contributions from States Parties, International Organizations and the International Seabed Authority relating to the financial period of the appropriations which remain unpaid shall be treated as a cash surplus as in regulation 4.3. Any obligations remaining a valid claim at that time shall be charged against current appropriations.

The provisional cash surplus for the financial period shall be determined by establishing the balance between credits (assessed contributions actually received for the financial period and miscellaneous income received during the financial period) and charges (all disbursements against the appropriations for that financial period and provisions for unliquidated obligations for that financial period).

The cash surplus for the financial period shall be determined by crediting to the provisional cash surplus any arrears of prior periods ' contributions received during this period and any savings from the provisions made for unliquidated obligations as mentioned above. Any remaining outstanding obligations shall be re-obligated against the appropriations of the current financial period.

4.5 Any cash surplus in the budget at the close of any financial period shall be apportioned among States Parties, International Organizations and the International Seabed Authority in proportion to the contributions determined for the financial period to which the surplus relates. As of 1 January of the year in which the audit of the accounts of the financial period is completed, the amount so apportioned to a State Party, an International Organization or the International Seabed Authority shall be surrendered if its contribution for that financial period has been paid in full and shall be applied to liquidate, in whole or in part, first, any advance due to the Working Capital Fund; secondly, any arrears of contributions; and thirdly, contributions for the calendar year following the year in which the audit is completed.

While any cash surplus in the budget shall be apportioned among all States Parties, International Organizations and the International Seabed Authority, the amount so apportioned shall be surrendered only to those which have paid in full their contributions for that financial period. Amounts apportioned but not surrendered shall be retained by the Registrar until such time as the contribution for the relevant financial period is paid in full, at which time they shall be applied as set forth above.

4.6 No transfer between appropriation sections may be made without authorization by the Meeting of States Parties, unless such a transfer is made necessary by exceptional circumstances and is in accordance with criteria agreed upon by the Meeting of States Parties.

4.7 The Registrar shall prudently manage the appropriations. The Registrar shall be accountable to the Meeting of States Parties for the proper management of the financial resources in accordance with these Regulations and the Financial Rules.

Rule 104.1: Authorization to expend appropriations

Authorization by the Registrar to expend budget appropriations may take the form of:

(a) an allotment of funds or other authorization to commit funds for a specific period and/or a specific purpose; and/or

(b) an authorization for the employment of staff or of consultants.

Rule 104.2: Allotment advice

The Registrar shall issue at least annually a detailed allotment advice to each organizational unit of the Tribunal for the objects of expenditure for which it is responsible.

Rule 104.3: Redeployment between organizational units

The Registrar may redeploy resources among organizational units and objects of expenditure, provided such redeployments are within the total appropriations approved by the Meeting of States Parties for an appropriation section.

REGULATION 5: Provision of funds

5.1 The funds of the Tribunal shall include:

(a) assessed contributions made by States Parties in accordance with article 19, paragraph 1, of the Statute;

(b) agreed contributions, as determined by the Meeting of States Parties, made by International Organizations;

(c) contributions by the International Seabed Authority in accordance with article 19, paragraph 1, of the Statute;

(d) contributions by other entities in accordance with article 19, paragraph 2, of the Statute;

(e) voluntary contributions made by States Parties, other States, International Organizations, the International Seabed Authority or other entities;

(f) such other funds to which the Tribunal may become entitled or may receive.

5.2 The appropriations, subject to the adjustments effected in accordance with the provisions of regulation 5.3, shall be financed by:

(a) assessed contributions from the States Parties in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations in the preceding calendar year adjusted to take into account the differences in membership between the United Nations and the States Parties to the Convention, as well as a floor rate and a ceiling rate as determined from time to time by the Meeting of States Parties;

(b) agreed contributions from International Organizations, as determined from time to time by the Meeting of States Parties, taking into consideration the total amount of the budget for each financial period;

(c) contributions from the International Seabed Authority.

Pending the receipt of such contributions, the appropriations may be financed by the Working Capital Fund.

5.3 For each of the two years of a financial period, the contributions of States Parties, International Organizations and the International Seabed Authority shall be determined on the basis of half of the appropriations adopted by the Meeting of States Parties for that financial period, except that adjustments shall be made in respect of:

(a) supplementary appropriations for which contributions have not previously been determined;

(b) contributions under the provisions of regulations 5.9 and 5.10;

(c) any balance of the appropriations surrendered under regulations 4.3, 4.4 and 4.5.

5.4 After the Meeting of States Parties has adopted the budget and determined the amount of the Working Capital Fund, the Registrar shall:

(a) transmit the relevant documents to the States Parties, International Organizations and the International Seabed Authority;

(b) inform the States Parties, International Organizations and the International Seabed Authority of their commitments in respect of annual contributions and advances to the Working Capital Fund;

(c) request them to remit their contributions and advances.

Rule 105.1: Time frame for application of regulation 5.4

The Registrar shall comply with regulation 5.4 within thirty days of the decision by the Meeting of States Parties approving the budget and the level of the Working Capital Fund.

5.5 Contributions and advances shall be considered as due and payable in full within thirty days of the receipt of the communication of the Registrar referred to in regulation 5.4, or as of the first day of the calendar year to which they relate, whichever is the later. As of 1 January of the following calendar year, the unpaid balance of such contributions and advances shall be considered to be one year in arrears.

5.6 Annual contributions and advances to the Working Capital Fund shall be determined in euros and paid in either United States dollars or euros.

Rule 105.2: Exchange rate of assessed contributions paid in US$

The equivalent in euros of contributions paid in US$ is calculated at the most favourable rate of exchange (normally the market buying rate) available to the Tribunal on the date of payment.

5.7 Payments made by a State Party, an International Organization or the International Seabed Authority shall be credited first to the Working Capital Fund and then to the contributions due, in the order in which the contribution was determined.

5.8 The Registrar shall submit to each Meeting of States Parties a report on the collection of contributions and advances to the Working Capital Fund.

5.9 New States Parties shall be required to make contributions for the year in which they become States Parties and to provide their proportion of the total advances to the Working Capital Fund at rates to be determined by the Meeting of States Parties.

5.10 New International Organizations shall be required to make agreed contributions for the year in which they become Parties to the Convention and to provide their proportion of the total advances to the Working Capital Fu d at rates to be determined by the Meeting of States Parties.

5.11 Contributions of entities other than a State Party, an International Organization or the International Seabed Authority to the expenses of the Tribunal shall be treated as miscellaneous income.

REGULATION 6: Funds

6.1 There shall be established a General Fund for the purpose of accounting for the administrative expenditures of the Tribunal. The contributions referred to in regulation 5.2 by States Parties, International Organizations and the International Seabed Authority, miscellaneous income and any advances made from the Working Capital Fund to finance administrative expenditures shall be credited to the General Fund.

6.2 There shall be established a Working Capital Fund to ensure financial resources for the Tribunal to meet short-term liquidity problems pending receipt of contributions under regulation 5.2 and to provide the Tribunal with the financial means to deal with cases, in particular those requiring urgent proceedings, to the extent that the expenditure cannot be met from the contingency. The amount shall be determined from time to time by the Meeting of States Parties. The Working Capital Fund shall be constituted by advances from States Parties, International Organizations and the International Seabed Authority. Advances shall be made in accordance with the agreed scale of assessment or, in the case of International Organizations and the International Seabed Authority, as determined from time to time by the Meeting of States Parties. Advances shall be carried to the credit of States Parties, International Organizations and the International Seabed Authority which have made such advances.

6.3 Advances made from the Working Capital Fund to finance budgetary appropriations shall be reimbursed to the Fund as soon as and to the extent that income is available for that purpose.

Rule 106.1: Advances from the Working Capital Fund

(a) Advances from the Working Capital Fund may be made only for the purposes and within the terms and conditions prescribed by the Meeting of States Parties and only with the approval of the Registrar.

(b) Except when such advances are recoverable from some other source, advances from the Working Capital Fund for unforeseen and extraordinary expenses or other authorized purposes shall be reimbursed though the submission of supplementary programme budget proposals.

6.4 Income derived from investments of the Working Capital Fund in accordance with regulation 9.1 shall be credited to miscellaneous income.

6.5 Reserve and special accounts may be established by the Registrar, with the approval of the Tribunal, in accordance with these Regulations and shall be reported to the Meeting of States Parties. Trust funds may also be established by the Registrar, with the approval of the Tribunal, in accordance with these Regulations and shall be brought to the Meeting of States Parties for its consideration.

6.6 The purpose and limits of each trust fund, reserve and special account shall be clearly defined by the authority approving it pursuant to regulation 6.5. Unless otherwise decided by the Meeting of States Parties, such funds and accounts shall be administered in accordance with these Regulations.

REGULATION 7: Other income

7.1 All other income except:

(a) contributions to the budget by States Parties, International Organizations and the International Seabed Authority in accordance with regulation 5.2;

(b) voluntary contributions pursuant to regulation 7.2;

(c) direct refunds of expenditures made during the financial period;

(d) revenue derived from staff assessment, shall be classed as miscellaneous income, for credit to the General Fund.

Rule 107.1: New States Parties and other entities

Contributions from new States Parties and International Organizations for the year in which they become parties to the Convention, and contributions from other entities, shall be credited as miscellaneous income. Contributions from new States Parties shall be determined on a quarterly basis.

7.2 Voluntary contributions, gifts and donations, whether or not in cash, may be accepted by the Tribunal, provided that the purposes for which the contributions are made are consistent with the nature and functions of the Tribunal. Acceptance of any such contributions, gifts and donations which directly or indirectly involve additional financial liability for the Tribunal shall require the prior consent of the Meeting of States Parties. Information on voluntary contributions, gifts and donations accepted under this regulation shall be communicated to the next Meeting of States Parties.

7.3 Moneys accepted in accordance with regulation 7.2 for purposes specified by the donors shall be treated as trust funds or special accounts in accordance with regulation 6.5.

7.4 Moneys in respect of which no purpose is specified shall be treated as miscellaneous income and reported as "gifts" in the accounts of the financial period.

Rule 107.2: Reimbursements of expenditures

(a) Within the same financial period, reimbursements of actual expenditures incurred may be credited to the accounts against which they were originally charged; reimbursements of actual expenditures incurred in prior financial periods shall be credited as miscellaneous income.

(b) Adjustments that arise subsequent to the closing of an extra budgetary account (i.e., a trust fund, special account, project, etc.) shall be debited or credited against miscellaneous income in the same account.

Rule 107.3: Proceeds from revenue-producing activities

Proceeds from revenue-producing activities shall be credited as miscellaneous income.

Rule 107.4: Receipt and deposit

(a) An official receipt shall be issued as soon as practicable for all cash and negotiable instruments received.

(b) Only officials designated by the Registrar shall be authorized to issue official receipts. If other officials receive money intended for the Tribunal, they must immediately convey this money to an official authorized to issue an official receipt.

(c) All moneys received shall be deposited in an official bank account as soon as practicable.

REGULATION 8: Custody of funds

8. The Registrar shall designate a reputable bank or banks in which the funds of the Tribunal shall be kept.

Rule 108.1: Bank accounts, authority and policy

The Registrar shall establish all official bank accounts required for the transaction of the Tribunal 's business and shall designate those officials to whom signatory authority is delegated for the operation of those accounts. The Registrar shall also authorize all bank account closures. The Tribunal 's bank accounts are to be opened and operated in accordance with the following guidelines:

(a) bank accounts shall be designated "official accounts of the International Tribunal for the Law of the Sea" and the relevant authority shall be notified that those accounts are exempt from all taxation;

(b) banks shall be required to provide monthly statements promptly;

(c) two signatures, or their electronic equivalent, shall be required on all cheques and other withdrawal instructions, including electronic modes of payment;

(d) all banks shall be required to recognize that the Registrar is authorized to receive, upon request or as promptly as is practicable, all information pertaining to official bank accounts of the Tribunal.

Rule 108.2: Bank signatories

Bank signatory authority and responsibility is assigned on a personal basis and cannot be delegated. Bank signatories cannot exercise the approving functions assigned in accordance with rule 110.4. Designated bank signatories must:

(a) ensure that there are sufficient funds in the bank account when cheques and other payment instructions are presented for payment;

(b) verify that all cheques and other payment instructions are pre-encumbered, dated and drawn to the order of the named payee approved by an approving officer (designated in accordance with rule 110.4), as indicated in the accompanying disbursement voucher, payment instructions and original invoice;

(c) ensure that cheques and other banking instruments are properly safeguarded and that when they are obsolete they are destroyed in the
presence of two officials designated for that purpose by the Registrar.

Rule 108.3: Exchange of currencies

Officials responsible for the operation of the Tribunal 's bank accounts or for holding the Tribunal 's cash or negotiable instruments are not authorized to exchange one currency for another, except to the extent necessary for the transaction of official business.

Rule 108.4: Cash advances

(a) Petty cash advances may be made only by and to officials designated for this purpose by the Registrar.

(b) The relevant accounts shall be maintained on an imprest system and the amount and purposes of each advance shall be defined by the Registrar.

(c) The Registrar may approve other cash advances as may be permitted by the Staff Regulations and Rules and administrative instructions and as may otherwise be authorized in writing by the Registrar.

(d) Officials to whom cash advances are issued shall be held personally responsible and financially liable for the proper management and safekeeping of cash so advanced and must be in a position to account for the advances at all times. They shall submit monthly accounts, unless otherwise directed by the Registrar.

Rule 108.5: Disbursements/payments

(a) All disbursements shall be made by cheque, by wire transfer or by electronic funds transfer except to the extent that cash disbursements are authorized by the Registrar.

(b) Disbursements shall be recorded in the accounts as of the date when they are made, that is, when the cheque is issued, transfer is effected or cash is paid out.

(c) Except where a paid cheque is returned by the bank or a debit advice is received from the bank, a payee's written receipt shall be
obtained for all disbursements.

Rule 108.6: Reconciliation of bank accounts

Every month, unless an exception is authorized by the Registrar, all financial transactions, including bank charges and commissions, must be reconciled with the information submitted by banks in accordance with rule 108.1. This reconciliation must be performed by officials having no actual part in the receipt or disbursement of funds. If the staff situation at the Tribunal makes this impracticable, alternative arrangements may be established in consultation with the Registrar.

REGULATION 9: Investment of funds

9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.

Rule 109.1: Policy

(a) Short-term investments are investments made for less than 12 months.

(b) The Registrar shall ensure, including by establishing appropriate guidelines, that funds are invested in such a way as to place primary emphasis on minimizing the risk to principal funds while ensuring the liquidity necessary to meet the Tribunal 's cash-flow requirements. In addition to these criteria, investments shall be selected on the basis of achieving the highest reasonable rate of return and shall accord with the independence and impartiality of the Tribunal and the principles of the Charter of the United Nations.

Rule 109.2: Investment ledger

Investments shall be recorded in an investment ledger, which shall
show all the relevant details for each investment, including, for example, face value, cost, date of maturity, place of deposit, proceeds of sale and income earned.

Rule 109.3: Custody of investments

(a) All investments shall be made through, and maintained by, reputable financial institutions designated by the Registrar.

(b) All investment transactions, including the withdrawal of invested resources, require the authorization and signature of two officials designated for that purpose by the Registrar.

9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account.

Rule 109.4: Income from investments

(a) Income derived from General Fund investments shall be credited as miscellaneous income.

(b) Income derived from Working Capital Fund investments shall be credited to miscellaneous income, as provided for in regulation 6.4.

(c) Income derived from investments pertaining to trust funds reserve and special accounts shall be credited to the trust fund, reserve or special account concerned.

(d) Income from investments must be recorded and reported by the Registrar to the Auditor.

Rule 109.5: Losses

(a) Any investment losses must be recorded, and reported at once to the Registrar. The Registrar may authorize the writing-off of investment losses. A summary statement of investment losses, if any, shall be provided to the Auditor within three months following the end of the financial period.

(b) Investment losses shall be borne by the fund, trust fund, reserve or special account from which the principal amounts were obtained. (See also rule 110.9 with respect to the writing-off of losses of cash and receivables.)

REGULATION 10: Internal control

10.1 The Registrar shall:

(a) establish, with the approval of the Tribunal, detailed financial rules and procedures in order to ensure effective financial administration and the exercise of economy. These rules and procedures shall be brought to the Meeting of States Parties for its consideration;

(b) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received and that payments have not previously been made;

(c) designate the officers who may receive moneys, incur obligations and make payments on behalf of the Tribunal;

(d) maintain an internal financial control which shall provide for effective current examination and/or review of financial transactions in order to ensure:

(i) the regularity of the receipt, custody and disposal of all funds and other financial resources of the Tribunal;

(ii) the conformity of obligations and expenditures with the appropriations or other financial provisions voted by the Meeting of States Parties, or with the purposes and rules relating to trust funds and special accounts;

(iii) the economic use of the resources of the Tribunal.

10.2 Obligations for the current financial period or commitments for current and future financial periods shall be incurred only after allotments or other appropriate authorizations have been made in writing under the authority of the Registrar.

Rule 110.1: Authorization

The utilization of all funds requires the prior authorization of the Registrar. Such authorization may take the form of:

(a) an allotment of funds or other authorization to commit, obligate and expend specified funds for specified purposes during a specified period;

(b) an authorization to employ staff against an approved staffing table.

Rule 110.2: Certification and approval

Notwithstanding bank signatory functions assigned in accordance with rule 108.2, all commitments, obligations and expenditures require at least two authorizing signatures, in either conventional or electronic form. All commitments, obligations and expenditures must first be signed ("certified") by a duly designated certifying officer (rule 110.3). Following certification, duly designated approving officers (rule 110.4) must then sign to "approve" the establishment of obligations and the recording of expenditures in the accounts and the processing of payments. Expenditures recorded against an established, certified obligation do not require additional certification, provided that they do not exceed the amount obligated by more than 10 per cent or €2,500 (or its equivalent in other currencies), whichever is lower (rule 110.5). Expenditures under €2,500 (or its equivalent in other currencies) for which the recording of an obligation is unnecessary require both certification and approval.

Rule 110.3: Certifying officers

(a) One or more officials shall be designated by the Registrar as the certifying officer(s) for the account(s) pertaining to a section or subsection of an approved budget. Certifying authority and responsibility is assigned on a personal basis and cannot be delegated. A certifying officer cannot exercise the approving functions assigned in accordance with rule 110.4.

(b) Certifying officers are responsible for managing the utilization of resources, including posts, in accordance with the purposes for which those resources were approved, the principles of efficiency and effectiveness and the Financial Regulations and Rules of the Tribunal. Certifying officers must maintain detailed records of all obligations and expenditures against the accounts for which they have been delegated responsibility. They must be prepared to submit any supporting documents, explanations and justifications requested by the Registrar.

Rule 110.4: Approving officers

(a) Approving officers are designated by the Registrar to approve the entry into the accounts of obligations and expenditures relating to contracts, agreements, purchase orders and other forms of undertaking after verifying that they are in order and have been certified by a duly designated certifying officer. Approving officers are also responsible for approving the making of payments once they have ensured that they are properly due, confirming that the necessary services, supplies or equipment have been received in accordance with the contract, agreement, purchase order or other form of undertaking by which they were ordered and, if the cost exceeds €2,500 (or its equivalent in other currencies), in accordance with the purpose for which the relevant financial obligation was established. Approving officers must maintain detailed records and must be prepared to submit any supporting documents, explanations and justifications requested by the Registrar.

(b) Approving authority and responsibility is assigned on a personal basis and cannot be delegated. An approving officer cannot exercise the certifying functions assigned in accordance with rule 110.3 or the bank signatory functions assigned in accordance with rule 108.2.

Rule 110.5: Establishment and revision of obligations

(a) Apart from the employment of staff against an authorized staffing table, and consequential commitments under the Staff Regulations and Rules, no undertaking, including by contract, agreement or purchase order, for an amount exceeding €2,500 (or its equivalent in other currencies) shall be entered into until the appropriate credit(s) has (have) been reserved in the accounts. This shall be done through the recording of an obligation(s), against which relevant payments or disbursements, made only on fulfilment of contractual and other obligations, shall be recorded as expenditure. An obligation shall be recorded in the accounts as unliquidated during the period set forth in regulation 4.3 and until such point as it is reobligated, liquidated or cancelled in accordance with regulation 4.4.

(b) If, in the time that elapses between the establishment of an obligation and the processing of final payment, the cost of the relevant goods or services has, for whatever reason, increased by less than €2,500 (or its equivalent in other currencies) or 10 per cent of the obligation, whichever is lower, no change need be made to the amount of the original obligation. If, however, the increase in costs exceeds either of these thresholds, the original obligation must be revised to reflect this increase in requirements and further certification is required. All increases in obligations, including those resulting from currency fluctuations, shall be subject to the same procedures as apply to the incurring of original obligations.

Rule 110.6: Review, reobligation and cancellation of obligations

(a) Outstanding obligations must be reviewed periodically by the responsible certifying officer(s). If an obligation is determined to be valid but cannot be liquidated during the period set forth in regulation 4.2, the provisions of regulation 4.3 shall be applied. Obligations that are no longer valid shall be cancelled from the accounts forthwith, and the resulting credit surrendered.

(b) When any obligation previously recorded in the accounts is, for any reason, reduced (other than by payment) or cancelled, the certifying officer shall accordingly ensure that appropriate adjustments are recorded in the accounts.

Rule 110.7: Obligating documents

An obligation must be based on a formal contract, agreement, purchase order or other form of undertaking, or on a liability recognized by the Tribunal. All obligations must be supported by an appropriate obligating document.

10.3 The Registrar, with the approval of the Tribunal, may make such ex gratia payments as he or she deems to be necessary in the interest of the Tribunal, provided that a statement of such payments shall be submitted to the Meeting of States Parties with the accounts.

Rule 110.8: Ex gratia payments

A summary statement of all ex gratia payments shall be provided to the Auditor not later than three months following the end of the financial period..

10.4 The Registrar may, after full investigation, authorize the writing-off of losses of cash, stores and other assets, provided that a statement of all such amounts written off shall be submitted to the Auditor with the accounts together with the justifications attached thereto and brought to the Meeting of States Parties for its consideration.

Rule 110.9: Writing off of losses of cash and receivables

(a) The Registrar may, after full investigation, authorize the writing off of losses of cash and the book value of accounts and receivables deemed to be irrecoverable. A detailed statement of losses of cash and receivables shall be provided to the Auditor not later than three months following the end of the financial period.

(b) The investigation shall, in each case, fix the responsibility, if any, attaching to any official of the Tribunal for the loss or losses. Such official(s) may be required to reimburse the Tribunal either partially or in full. Final determination as to all charges to be made against staff members or others as the result of losses will be made by the Registrar.

Rule 110.10: Writing off of losses of property

(a) The Registrar may, after full investigation, authorize the writing off of losses of property of the Tribunal, and adjust the record to bring the balance shown into conformity with actual, physical property. A detailed statement of losses of non-expendable property shall be provided to the Auditor not later than three months following the end of the financial period.

(b) The investigation shall, in each case, fix the responsibility, if any, attaching to any official of the Tribunal for the loss or losses. Such official(s) may be required to reimburse the Tribunal either partially or in full. Final determination as to all charges to be made against staff members or others as the result of losses will be made by the Registrar.

10.5 Substantial purchases of equipment, supplies and other requirements as specified in the Financial Rules shall be by tender. Such tenders shall be invited by advertisement, except where the Registrar, with the approval of the President of the Tribunal, deems that, in the interests of the Tribunal, a departure from the rule is desirable.

Rule 110.11: General principles

Procurement functions include all actions necessary for the acquisition, by purchase or lease, of property, including products and real property, and of services, including works. The following general principles shall be given due consideration when exercising the procurement functions of the Tribunal:

(a) best value for money;

(b) fairness, integrity and transparency;

(c) effective international competition;

(d) the interest of the Tribunal.

Rule 110.12: Authority and responsibility for procurement

(a) The Registrar is responsible for the procurement functions of the Tribunal, shall establish all its procurement systems and shall designate the officials responsible for performing procurement functions.

(b) The Registrar shall establish a review committee to render written advice to the Registrar on procurement actions leading to the award or amendment of procurement contracts, which, for purposes of these Regulations and Rules, includes agreements or other written instruments such as purchase orders and contracts that involve income to the Tribunal. The Registrar shall establish the composition and the terms of reference of the committee, which shall include the types and monetary values of proposed procurement actions subject to review.

(c) Where the advice of the review committee is required, no final action leading to the award or amendment of a procurement contract may be taken before such advice is received. In cases where the Registrar decides not to accept the advice of such a review committee, he or she shall record in writing the reasons for that decision.

Rule 110.13: Competition

Consistent with the principles set out in rule 110.11 and except as provided in rule 110.15, procurement contracts shall be awarded on the basis of effective competition, and to this end the competitive process shall, as necessary, include:

(a) acquisition planning for developing an overall procurement strategy and procurement methodologies;

(b) market research for identifying potential suppliers;

(c) consideration of prudent commercial practices;

(d) formal methods of solicitation, utilizing invitations to bid or requests for proposals on the basis of advertisement or direct solicitation of invited suppliers; or informal methods of solicitation, such as requests for quotations. The Registrar shall issue administrative instructions concerning the types of procurement activities and monetary values for which such methods of solicitation are to be used;

(e) public bid openings.

Rule 110.14: Formal methods of solicitation

(a) When a formal invitation to bid has been issued, the procurement contract shall be awarded to the qualified bidder whose bid substantially conforms to the requirements set forth in the solicitation document and is evaluated to be the lowest cost to the Tribunal.

(b) When a formal request for proposals has been issued, the procurement contract shall be awarded to the qualified proposer whose proposal is the most responsive to the requirements set forth in the solicitation document.

(c) The Registrar may, in the interest of the Tribunal, reject bids or proposals for a particular procurement action, recording the reasons for rejection in writing. The Registrar shall then determine whether to undertake a new solicitation, or to directly negotiate a procurement contract pursuant to rule 110.15, or to terminate or suspend the procurement action.

Rule 110.15: Exceptions to the use of formal methods of solicitation

(a) The Registrar may, with the approval of the President, determine for a particular procurement action that using formal methods of solicitation is not in the best interest of the Tribunal:

(i) when there is no competitive marketplace for the requirement, such as where a monopoly exists, where prices are fixed by legislation or government regulation, or where the requirement involves a proprietary product or service;

(ii) when there has been a previous determination or there is a need to standardize the requirement;

(iii) when the proposed procurement contract is the result of cooperation with an organization of the United Nations system, pursuant to rule 110.16;

(iv) when offers for identical products and services have been obtained competitively within a reasonable period and the prices and conditions offered remain competitive;

(v) when, within a reasonable prior period, a formal solicitation has not produced satisfactory results;

(vi) when the proposed procurement contract is for the purchase or lease of real property and market conditions do not allow for effective competition;

(vii) when there is an exigency for the requirement;

(viii) when the proposed procurement contract relates to obtaining services that cannot be evaluated objectively;

(ix) when the Registrar determines that for other reasons a formal solicitation will not give satisfactory results;

(x) when the value of the procurement is below the monetary threshold established for formal methods of solicitation.

(b) When a determination is made pursuant to paragraph (a) above, the Registrar shall record the reasons in writing and may then award a procurement contract, either on the basis of an informal method of solicitation, or on the basis of a directly negotiated contract, to a qualified vendor whose offer substantially conforms to the requirement at an acceptable price.

Rule 110.16: Cooperation

(a) The Registrar may cooperate with organizations of the United Nations system to meet the procurement requirements of the Tribunal, provided that the regulations and rules of those organizations are consistent with those of the Tribunal. The Registrar may, as appropriate, enter into agreements for such purposes. Such cooperation may include carrying out common procurement actions together, or the Tribunal entering into a contract in reliance on a procurement decision of a United Nations organization, or requesting a United Nations organization to carry out procurement activities on behalf of the Tribunal.

(b) The Registrar may, to the extent authorized by the Meeting of States Parties, cooperate with a Government, non-governmental organization or other public international organization in respect of procurement activities and, as appropriate, enter into agreements for such purposes.

Rule 110.17: Written contracts

(a) Written procurement contracts shall be used to formalize every procurement for a monetary value over specific thresholds established by the Registrar. Such arrangements shall, as appropriate, specify in detail:

(i) the nature of the products or services being procured;

(ii) the quantity being procured;

(iii) the contract or unit price;

(iv) the period covered;

(v) conditions to be fulfilled, including the Tribunal 's general conditions of contract and implications for non delivery;

(vi) terms of delivery and payment;

(vii) name and address of supplier.

(b) The requirement for written procurement contracts shall not be interpreted to restrict the use of any electronic means of data interchange. Before using any electronic means of data interchange, the Registrar shall ensure that the electronic data interchange system is capable of ensuring authentication and confidentiality of the information.

Rule 110.18: Advance and progress payments

(a) Except where normal commercial practice or the interests of the Tribunal so require, no contract or other form of undertaking shall be made on behalf of the Tribunal which requires a payment or payments on account in advance of the delivery of products or the performance of contractual services. Whenever an advance payment is agreed to, the reasons therefor shall be recorded.

(b) In addition to subparagraph (a) above and notwithstanding rule 103.6, the Registrar may, where necessary, authorize progress payments.

Rule 110.19: Authority and responsibility on property management

(a) The Registrar is responsible for the management of the property of the Tribunal, including all systems governing its receipt, recording, utilization, safe keeping, maintenance and disposal, including by sale, and shall designate the officials responsible for performing property management functions.

(b) A summary statement of non-expendable Tribunal property shall be provided to the Auditor not later than three months following the end of the financial period.

Rule 110.20: Inventories

An inventory shall be taken of supplies, equipment or other property of the Tribunal or entrusted to the charge of the Tribunal at such intervals as deemed necessary to ensure adequate control over such property. Where property is of a kind used and/or administered by only one organizational unit, the Registrar may delegate responsibility for making arrangements for preparing such inventories to the head of that organizational unit.

Rule 110.21: Property Survey Board

(a) The Registrar shall establish a Property Survey Board, to render written advice in respect of loss, damage or other discrepancy regarding the property of the Tribunal. The Registrar shall establish the composition and terms of reference of the Board, which shall include procedures for determining the cause of such loss, damage or other discrepancy, the disposal action in accordance with rule 110.21, and the degree of responsibility, if any, attaching to any Tribunal official or other party for such loss, damage or other discrepancy.

(b) Where the advice of the Board is required, no final action in respect of the loss, damage or other discrepancy may be taken before such advice is received. In cases where the Registrar decides not to accept the advice of the Board, the Registrar shall record in writing the reasons for that decision.

Rule 110.22: Sale/disposal of property

(a) The Registrar shall be responsible for the disposal of property by sale. The Registrar may delegate authority as necessary.

(b) Sales of supplies, equipment or other property declared surplus or unserviceable shall be based on competitive bidding, unless the Property Survey Board:

(i) estimates that the sales value is less than € 5,000 ;

(ii) considers that the exchange of property in partial or full payment for the replacement equipment or supplies is in the best interests of the Tribunal;

(iii) deems it appropriate to transfer surplus property from one office or programme for use in another and determines the fair market value at which the transfer(s) shall be effected;

(iv) determines that the destruction of the surplus or unserviceable material will be more economical or is required by law or by the nature of the property;

(v) determines that the interests of the Tribunal will be served through the disposal of the property by gift or sale at nominal prices to another intergovernmental organization, a Government or government agency or some other non-profit organization.

Rule 110.23: Sale of property

Except as provided for in rule 110.22 above, property shall be sold on the basis of payments on or before delivery.

REGULATION 11: The accounts

11.1 The Registrar shall submit accounts for the financial period. In addition, the Registrar shall maintain, for management purposes, such accounting records as are necessary. The accounts for the financial period shall show:

(a) the income and expenditures of all funds;

(b) the status of appropriations, including:

(i) the original budget appropriations;

(ii) the appropriations as modified by any transfers;

(iii) credits, if any, other than the appropriations adopted by the Meeting of States Parties;

(iv) the amounts charged against those appropriations and/or other credits.

(c) the assets and liabilities of the Tribunal.

The Registrar shall also give such other information as may be appropriate to indicate the current financial position of the Tribunal.

Rule 111.1: Principal accounts

In accordance with regulations 11.1 and 11.3, the principal accounts of the Tribunal shall include detailed, comprehensive and up-to-date records of assets and liabilities for all sources of funds. The principal accounts shall consist of:

(a) programme budget accounts, showing:

(i) original appropriations;

(ii) appropriations as modified by transfers;

(iii) credits (other than appropriations made available by the Meeting of States Parties);

(iv) expenditures, including payments and other disbursements and unliquidated obligations;

(v) unencumbered balances of allotments and appropriations.

(b) general ledger accounts, showing: all cash at banks, investments, receivables and other assets, payables and other liabilities;

(c) the Working Capital Fund and all trust funds, reserve or other special accounts.

Rule 111.2: Authority and responsibility for accounts

Responsibility for the accounts is assigned to the Registrar who shall establish all accounting procedures of the Tribunal and designate the officials responsible for performing accounting functions.

Rule 111.3: Accrual basis accounting

Unless otherwise directed by the Registrar, or by the particular terms governing the operation of a trust fund, reserve or special account, all financial transactions shall be recorded in the accounts on an accrual basis.

11.2 The accounts of the Tribunal shall be presented in euros. Accounting records may, however, be kept in such currency or currencies as the Registrar may deem necessary.

11.3 Appropriate separate accounts shall be maintained for all trust funds and special accounts.

Rule 111.4: Accounting for exchange rate fluctuations

(a) The Registrar shall establish the operational rates of exchange between the euro and other currencies, on the basis of the operational rates of exchange established by the Secretariat of the United Nations. The operational rate(s) of exchange shall be used for the recording of all Tribunal transactions.

(b) Payments in currencies other than the euro will be determined on the basis of the operational rate(s) of exchange prevailing at the time of payment. Any difference between the actual amount(s) received on exchange and the amount(s) that would have been obtained at the operational rate(s) of exchange shall be accounted for as loss or gain on exchange.

(c) When closing the final accounts for a financial period, any negative balance on the account for "loss or gain on exchange" shall be debited to the relevant budget account, while any positive balance shall be credited to miscellaneous income.

Rule 111.5: Accounting for proceeds from the sale of property

The proceeds from the sale of property shall be credited as miscellaneous income except:

(a) where the Property Survey Board has recommended the application of these proceeds directly against the purchase price of replacement equipment or supplies (any balance shall be taken into account as miscellaneous income);

(b) when the trade-in property is not considered to be a sale, and the allowance shall be applied against the cost of the replacement property;

(c) where the normal practice is to secure and use certain material or equipment in connection with a contract and to salvage and sell such material or equipment at a later stage;

(d) when the proceeds from the sale of surplus equipment shall be credited to the relevant programme account, provided that it has not been closed;

(e) when equipment transferred from one programme for use in another and the account of the releasing programme is open, the fair market value of such equipment shall be credited to the account of the releasing programme and charged to the account of the receiving programme.

Rule 111.6: Accounting for commitments against future financial periods

Obligations established prior to the financial period to which they pertain, pursuant to regulation 3.7 and rule 103.6, shall be recorded against a deferred charge account. Deferred charges shall be transferred to the appropriate account when the necessary appropriations and funds become available.

11.4 The accounts for the financial period shall be submitted by the Registrar to the Auditor not later than 31 March following the end of the financial period.

Rule 111.7: Financial statements

(a) For all accounts of the Tribunal, financial statements covering the financial period, as of 31 December, shall be submitted to the Auditor in euros not later than 31 March following the end of such period. Copies of financial statements shall also be transmitted to the Tribunal. Additional financial statements may be prepared as and when the Registrar deems necessary.

(b) Financial statements submitted to the Auditor for all accounts shall include:

(i) a statement of income, expenditures and changes in reserves and fund balances;

(ii) a statement of assets, liabilities, reserves and fund balances;

(iii) a statement of cash flows;

(iv) such other schedules as may be required;

(v) notes to the financial statements.

Rule 111.8: Archives

Accounting records, other financial and property records, and all supporting documents shall be retained for such periods as may be agreed with the Auditor. This period may not be less than ten years. Once this period has elapsed, the records and supporting documents may be destroyed on the authority of the Registrar. Where appropriate, such records and supporting documents shall be preserved by electronic means.

REGULATION 12: Audit

12.1 The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors or an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor.

12.2 The audit shall be conducted in conformity with generally accepted common auditing standards and in accordance with the additional terms of reference set out in the annex to these Regulations.

12.3 The Auditor may make observations with respect to the efficiency of the financial procedures, the accounting system, the internal financial controls and, in general, the administration and management of the Tribunal.

12.4 The Auditor shall be completely independent and solely responsible for the conduct of the audit.

12.5 The Meeting of States Parties and/or the Tribunal may request the Auditor to perform certain specific examinations and issue separate reports on the results.

12.6 The Registrar shall provide the Auditor with the facilities required in the performance of the audit.

12.7 The Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period, which shall include such information as the Auditor deems necessary with regard to matters referred to in regulation 12.3 and in the additional terms of reference.

12.8 The Tribunal shall examine the financial statements and the audit reports and shall forward them to the Meeting of States Parties, with such comments as it deems appropriate.

REGULATION 13: Decisions involving expenditures

13. Where, in the opinion of the Registrar, the proposed expenditure cannot be made from the existing appropriations, it shall not be incurred until the Meeting of States Parties has made the necessary appropriations or unless the Registrar certifies that provision can be made under the conditions of an applicable decision of the Meeting of States Parties relating to unforeseen and extraordinary expenses.

Rule 113.1: Decisions involving expenditures

(a) The Tribunal shall not take a decision involving either a change in the budget approved by the Meeting of States Parties or the possible requirement of expenditure unless it has received and taken account of a report of the Registrar on the budget implications of the proposal.

(b) All heads of organizational units are responsible for preparing, and when requested, presenting to the Tribunal the statements on budget implications required under (a).

REGULATION 14: General provisions

14.1 These Regulations shall become effective on 1 January 2004 and shall apply to the financial period 2005 - 2006 and to subsequent financial periods.

14.2 These Regulations may be amended by the Meeting of States Parties taking into account the views of the Tribunal.

Rule 114.1: Effective date

These Rules shall become effective on 1 January 2005.

Rule 114.2: Amendment of Rules

(a) These Rules may be amended by the Meeting of States Parties.

(b) Unless the Meeting of States Parties is seized of a specific proposal for amendment of a rule, the Tribunal, acting upon a proposal presented by the Registrar, may amend the Rules if the Tribunal is convinced that the amendment contributes towards better ensuring the principles of effective financial administration and the exercise of economy.

(c) An amendment enacted by the Tribunal will apply provisionally until such time as the Meeting of States Parties decides to endorse the amendment. If the Meeting of States Parties decides not to endorse the amendment, the unamended rule, or any rule that the Meeting of States Parties decides to adopt in its place, shall become effective as of the day on which the Meeting of States Parties takes that decision.